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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION
13

| | | |
|------------------------------|---|---------------------------------------|
| 14 UNITED STATES OF AMERICA, |) | No. CR 05-00395 CRB |
| |) | |
| 15 Plaintiff, |) | <u>REQUEST, STIPULATION AND ORDER</u> |
| |) | |
| 16 v. |) | |
| |) | |
| 17 HYE CHA KIM, |) | |
| |) | |
| 18 Defendant. |) | |
| |) | |

19
20 This matter is currently on the Court's calendar for December 13, 2006. Through
21 counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the December
22 13, 2006 date based on the defendant's anticipated plea agreement, (b) set a date of January 10,
23 2007 for change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from
24 December 13, 2006, to January 10, 2007.

25 1. The parties are currently engaged in plea negotiations and request that the Court set the
26 matter for January 10, 2007, for status/change-of-plea.

27 2. Based on the on-going negotiations, defense counsel needs time to review certain
28 discovery. The parties anticipate further discussions to resolve the case.

ORDER
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3. The parties agree that the time between December 13, 2006 and January 10, 2007 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review additional materials from the government and investigate the immigration consequences of a plea agreement. The parties agree that a continuance is necessary for the effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Further, given counsels' schedules, a continuance is appropriate based on continuity of counsel. Id. The parties also agree that the ends of justice served by excluding the period from December 13, 2006 to January 10, 2007 outweigh the interest of the public and the defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

STIPULATED:

12/12/06

/s/ PETER B. AXELROD

DATE

PETER B. AXELROD
LAUREL BEELER
Assistant United States Attorneys

12/12/06

/s/ PETER B. AXELROD for

DATE

SCOTT SUGARMAN
Attorney for Hye Cha Kim

ORDER

For good cause shown, and for the reasons stated above, the Court (a) vacates the December 13, 2006, hearing date for defendant Hye Cha Kim based on the anticipated change-of-plea, (b) sets the matter for status/change-of-plea on January 10, 2007, at 2:15 p.m., and (c) excludes times under the Speedy Trial Act, 18 U.S.C. § 3161, from December 13, 2006 to January 10, 2007. The Court finds that the failure to grant the requested exclusion would deny defense counsel reasonable time necessary for effective preparation taking into account the exercise of

1 due diligence. Further, the Court find the exclusion warranted based on continuity of counsel.
2 The Court also finds the exclusion warranted on complexity grounds, under 18 U.S.C. §
3 3161(h)(8)(B)(ii). Thus, the Court finds that the ends of justice served by granting the requested
4 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in the
5 prompt disposition of criminal cases. The Court therefore concludes that this exclusion of time
6 should be made under 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

7 IT IS SO ORDERED.

8
9 DATED: December 12, 2006

